STATE OF TENNESSEE

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SECTE TARY OF STATE DEPARTMENT OF ENVIRONMENT AND CONSERVATION

SECTE IN THE MATTER OF

POLLUTION CONTROL CITY OF DANDRIDGE Docket No. 04.30-098394A RESONDENT CASE NO. 07-068D

AGREED ORDER

This matter came to be heard before the Tennessee Water Quality Control Board upon the Director's Order and Assessment and the Respondent's Petition for Review. The Board, a quorum present, hereby adopts the following Findings of Fact and Conclusions of Law and Order and Assessments to which the parties have agreed, as evidence by the signatures of the parties below.

FINIDINGS OF FACT

I.

Paul E. Davis is the duly appointed director of the Division of Water Pollution Control (hereinafter the "Division") by the commissioner of the Tennessee Department of Environment and Conservation (hereinafter the "Department").

II.

The City of Dandridge (hereinafter the "Respondent"), or Town of Dandridge, is a municipality in Jefferson County, Tennessee. The Respondent owns and operates a sewage treatment plant (STP) located at 1114 Wastewater Drive, Dandridge, Tennessee. Service of process may be made on the Respondent through the Honorable George Gantte, Mayor, 131 East Main Street, P.O. Box 249, Dandridge 37725-0249.

III.

Whenever the Commissioner has reason to believe that a violation of Tennessee Code Annotated (T.C.A.) § 69-3-101 et seq., the Water Quality Control Act, (hereinafter the "Act") has occurred, or is about to occur, the Commissioner may issue a complaint to the violator and may order that corrective action be taken, pursuant to T.C.A. § 69-3-109(a) of the Act. Further, the Commissioner has authority to assess civil penalties against any violator of the Act, pursuant to T.C.A. § 69-3-115 of the Act; and has authority to assess damages incurred by the state resulting from the violation, pursuant to T.C.A. § 69-3-116 of the Act. Department Rules governing general water quality criteria and use classifications for surface waters have been promulgated, pursuant to T.C.A. § 69-3-105, and are effective as the Official Compilation Rules and Regulations of the State of Tennessee, Chapters 1200-4-3 and 1200-4-4 (hereinafter the "Rules"). Pursuant to T.C.A. § 69-3-107(13), the Commissioner may delegate to the Director of the Division of Water Pollution Control any of the powers, duties, and responsibilities of the Commissioner under the Act.

IV.

The Respondent is a "person" as defined at T.C.A. § 69-3-103(20) and, as herein described, has violated the Act.

V.

T.C.A. § 69-3-108 requires that a person obtain a permit from the Department prior to discharges into waters of the state. Rule 1200-4-5-.08 states in part that a set of effluent limitations will be required in each permit that will indicate adequate operation or performance

of treatment units used, and that appropriately limit those harmful parameters present in the wastewater. Furthermore, it is unlawful for any person to increase the volume or strength of any wastes in excess of the permissive discharges specified under any existing permit.

VI.

Douglas Lake at French Broad River, referred to herein, is "waters of the state," as defined by T.C.A. § 69-3-103(33). Pursuant to T.C.A. § 69-3-105(a)(1), all waters of the state have been classified by the Tennessee Water Quality Control Board for suitable uses. Department Rule 1200-4-4, "Use Classifications for Surface Waters," is contained in the *Official Compilation of Rules and Regulations for the State of Tennessee*. Accordingly, this water body has been classified for the following uses: domestic water supply, industrial water supply, fish and aquatic life, recreation, irrigation, and livestock watering and wildlife.

VII.

On August 31, 2005, the Division issued National Pollutant Discharge Elimination System (NPDES) Permit TN0021245 (hereinafter the "Permit") to the Respondent. The permit became effective on October 1, 2005, and expires on August 31, 2010. The permit authorizes the Respondent to discharge treated domestic wastewater from the Dandridge STP to receiving waters named Douglas Lake at the French Broad River mile 45.5, in accordance with effluent limitations, monitoring requirements, and other conditions set forth in the permit.

VIII.

On April 16, 2005, Division personnel conducted a Compliance Evaluation Inspection (CEI) of the Respondent's STP. During the course of the inspection, Division personnel observed poor quality effluent with floating solids leaving the STP. According to the operator, the plant had suffered a near washout of the sludge blankets from excess stormwater entering the

plant through the collection system. Plant personnel also informed Division personnel that the plant and associated collection system would be upgraded in the coming year.

IX.

On May 12, 2005, Division personnel sent the Respondent a letter detailing the CEI performed on April 16, 2005. The letter noted the poor quality of the effluent observed during the inspection and also mentioned the need to set up *Escherichia coli* testing when the new permit became effective in June of 2005. A list of methods for testing was included in the letter.

X.

During the monitoring period starting March 1, 2006, and ending March 31, 2007, the Respondent reported the following exceedances of permit parameters on the discharge monitoring reports (DMRs): 10 violations of biochemical oxygen demand, 14 violations of total suspended solids, 11 violations of *Escherichia coli*, 4 violations of settleable solids, 1 violation of chlorine, 1 violation of suspended solids percent removal, 1 violation of biochemical oxygen demand percent removal, 3 bypasses of treatment, and 22 overflows of sewage from the collection system. In addition, the Respondent was deficient in reporting data on the DMRs for 23 parameters required by the permit.

CONCLUSIONS OF LAW

XI.

By discharging wastewater effluent in violation of the terms and conditions of its NPDES permit, the Respondent has violated T.C.A. §§ 69-3-108(b) and 69-3-114(b) which state in-part:

T.C.A. § 69-3-108(b) states:

It is unlawful for any person, other than a person who discharges into a publicly owned treatment works or a person who is a domestic discharger into a privately owned treatment works, to carry out any of the following activities, except in accordance with the conditions of a valid permit:

- (1) The alteration of the physical, chemical, radiological, biological, or bacteriological properties of any waters of the state;
- (3) The increase in volume or strength of any wastes in excess of the permissive discharges specified under any existing permit;
- (6) The discharge of sewage, industrial wastes, or other wastes into water, or a location from which it is likely that the discharged substances will move into waters;

T.C.A. § 69-3-114(b) states:

In addition, it is unlawful for any person to act in a manner or degree which is violative of any provision of this part or of any rule, regulation, or standard of water quality promulgated by the board or of any permits or orders issued pursuant to the provisions of this part; or fail or refuse to file an application for a permit as required in § 69-3-108; or to refuse to furnish, or to falsify any records, information, plans, specifications, or other data required by the board or the commissioner under this part.

XII.

By discharging from a location other than through a permitted outfall and causing a condition of pollution to the French Broad at Douglas Lake, the Respondent has violated T.C.A. § 69-3-108(b) of the Act, as referenced above, and T.C.A. § 69-3-114(a) of the Act, which states in-part:

T.C.A. § 69-3-114(a) states:

It is unlawful for any person to discharge any substance into the waters of the state or to place or cause any substance to be placed in any locations where such substances, either by themselves or in combination with others, cause any of the damages as defined in § 69-3-103(22), unless such discharge shall be due to an unavoidable accident or unless such action has been properly authorized. Any such action is declared to be a public nuisance.

ORDER AND ASSESSMENT

XIII.

WHEREFORE, PREMISES CONSIDERED, it is hereby ORDERED by the Water Quality Control Board as follows:

- 1. The Respondent shall, within 180 days of this ORDER AND ASSESSMENT becoming final, submit for approval by the Division a corrective action plan/engineering report (CAP/ER) on the system. The CAP/ER shall include, but shall not be limited to, modifications to equipment or operations necessary to comply with all provisions of the subject NPDES permit and a project schedule including timetables for beginning and completing all activities. The Respondent shall submit the CAP/ER in duplicate to the manager of the Division's Environmental Field Office in Knoxville (EFO-K) at 3711 Middlebrook Pike, Knoxville, Tennessee 37921, and to the manager of the Enforcement and Compliance Section of Water Pollution Control at 401 Church Street, 6th Floor L&C Annex, Nashville, Tennessee 37243.
- 2. The Respondent shall, within 90 days of receipt of the Division's written approval, initiate the actions outlined in the CAP/ER, including those items required by the Division as comments in the approval of the CAP. At the time of first action on the CAP/ER, the Respondent shall notify the Division in writing of the action. This written notification shall be submitted in duplicate to the manager of the EFO-K and to the manager of the Enforcement and Compliance Section of Water Pollution control at the respective addresses in Item 1.
- 3. All scheduled activities in the approved CAP/ER shall be completed by June 30, 2011. A notice of completion should be sent to the manager of the EFO-K and to the manager of the Enforcement and Compliance Section at the respective addresses in Item 1.

- 4. Within 90 days of this ORDER AND ASSESSMENT becoming final, the Respondent shall submit to the Division, a sewer overflow response plan (SORP). The SORP shall include procedures for minimizing health impacts and shall include measures to be taken when overflows discharge on local streets or other public areas. The SORP shall also include appropriate measures for the notification of affected property owners and stream users, and shall include notification of the news media when necessary to protect public health. The SORP shall state specific procedures for notifying known downstream users in the event that untreated wastewater is discharged to waters of the state by sanitary. sewer overflows (SSO). These procedures shall include, but not be limited to, provisions for posting warning signs at places where the general public could gain access to polluted waters. Further, posted signs shall remain in place until in-stream monitoring reveals that the water body has returned to normal background conditions. In the event that the Division requires the Respondent to modify/revise the SORP, the Respondent shall submit the modified/revised SORP to the Division within thirty days of the date of notification. The SORP shall be submitted to the EFO-K and a copy to the manager of the Enforcement and Compliance Section at the respective addresses in Item 1.
- 5. Within 120 days of written approval by the Division, the Respondent shall fully implement the SORP. The Respondent shall notify the Division, in writing, once the SORP has been fully implemented. The notification shall be submitted to the EFO-K and a copy to the manager of the Enforcement and Compliance Section at the respective addresses in Item 1.
- 6. Within 180 days of this ORDER AND ASSESSMENT becoming final, the Respondent shall revise or develop, and submit to the Division for review and comment, the

following Maintenance Operation and Management (MOM) programs as identified in subparagraph 6.vii., below. The revised programs shall be submitted to the EFO-K and a copy to the manager of the Enforcement and Compliance Section at the respective addresses in Item 1. Each individual MOM program will have a sufficient level of documentation to assure the following:

- i. The program is specific to, and tailored for, the utility's infrastructure;
- ii. The program has a written purpose explaining why the program is needed;
- iii. The program has specific written goal(s) establishing the accomplishment(s) desired for the current fiscal year;
- iv. The program has the details of the activities and procedures that are followed to implement the program written down in the form of Standard Operating Procedures that are used by the utility's personnel;
- v. The program has established appropriate performance procedures which are tracked by management; and
- vi. The program has a written procedure requiring periodic review, evaluation, and any necessary revision.
- vii. The following programs have been identified by the Division as significant with respect to Dandridge and are in need of development or revision. Any revisions to existing programs must account for specific concerns, which the Division may have identified below. All newly developed programs and revised programs shall meet the narrative criteria identified in 6.i. through 6.vii. above.
 - a. Sewerage Assessment Priority Parameters Program
 - b. Routine Manhole Inspection Program

- c. Flow Monitoring Program to Support Engineering Studies
- d. Closed Circuit Television (CCTV) Program to Support Sewer
 Assessment
- e. Gravity System Defect Analysis Program
- f. Smoke Testing Program
- g. Gravity Lines Rehabilitation Program
- h. Manhole Rehabilitation Program
- i. Scheduled Pump Stations Operations Program
- j. Emergency Pump Station Operating Program
- k. Grease Control Program
- 1. Mechanical Maintenance Program
- m. Capital Improvement Program
- n. Work Order and Complaint Management Program
- o. System Inventory Program
- p. Capacity Assurance Program for New connections
- q. Long-Term Capacity Assurance Protocols
- 7. The Respondent shall submit an annual report detailing all updates and changes to any of the individual MOM programs. Each annual report shall be due on March 31st and shall be based upon the activities conducted in the previous calendar year. The first annual report shall be submitted on March 31, 2010, for the 2009 calendar year. The annual reports shall be submitted to the EFO-K and a copy to the manager of the Enforcement and Compliance Section at the respective addresses in Item 1. The last annual report will

be due in the year following completion of all system upgrades. Each annual report shall also include the following:

- i. A completed system profile and performance summary as outlined in Exhibit A;
- ii. A completed system-wide MOM programs recent performance summary as outlined in Exhibit B;
- iii. A completed sub-basin summary statistics summary spreadsheet as outlined in Exhibit C;
- iv. A five year capital improvement program with projected budgets for each item;
- v. A narrative description of the status of all contracted wastewater improvement projects, all in house replacement and rehabilitative projects, and the funding status of all improvement projects; and
- vi. Appropriate maps and any additional documents necessary to fully describe the system status and aid in review.
- 8. Within 1 year of this ORDER AND ASSESSMENT becoming final, the Respondent shall maintain the capacity, collection, and treatment evaluation protocols for the evaluation of new customer connections. These protocols shall include, but not be limited to, standard design flow rate assumptions (regarding pipe roughness, manhole head losses, "as-built" drawing accuracy [distance and slope], and water use [gallons per capita per day]), and projected flow impact modeling/calculation techniques. The program shall provide for certification of adequate capacity by a registered professional engineer. The program shall include an information management system for tracking the cumulative studies and relating studies to the infiltration/inflow reduction program.

- 9. The Respondent shall complete all requirements of this order no later than March 31, 2014.
- 10. The Respondent shall pay a CIVIL PENALTY of SEVENTY-THREE THOUSAND DOLLARS (\$73,000) to the Division, hereby ASSESSED to be paid as follows:
 - i. The Respondent shall, within 30 days of this ORDER AND ASSESSMENT becoming final, pay a civil penalty in the amount of ELEVEN THOUSAND SIX HUNDRED DOLLARS (\$11,600.00) to the Division of Water Pollution control, Enforcement & Compliance Section, located at, 401 Church Street, L&C Annex 6th Floor, Nashville, TN 37243-1534.
 - ii. If and only if, the Respondent fails to comply with item 1 above in a timely manner, the Respondent shall pay a CIVIL PENALTY in the amount of SIX THOUSAND FIVE HUNDRED DOLLARS (\$6,500.00), payable within 30 days of default.
 - iii. If and only if, the Respondent fails to comply with item 2 above in a timely manner, the Respondent shall pay a CIVIL PENALTY in the amount of SIX THOUSAND FIVE HUNDRED DOLLARS (\$6,500.00), payable within 30 days of default.
 - iv. If and only if, the Respondent fails to comply with item 3 above in a timely manner, the Respondent shall pay a CIVIL PENALTY in the amount of SIX THOUSAND FIVE HUNDRED DOLLARS (\$6,500.00), payable within 30 days of default.
 - v. If and only if, the Respondent fails to comply with item 4 above in a timely manner, the Respondent shall pay a CIVIL PENALTY in the amount of SIX

- THOUSAND FIVE HUNDRED DOLLARS (\$6,500.00), payable within 30 days of default.
- vi. If and only if, the Respondent fails to comply with item 5 above in a timely manner, the Respondent shall pay a CIVIL PENALTY in the amount of SIX THOUSAND FIVE HUNDRED DOLLARS (\$6,500.00), payable within 30 days of default.
- vii. If and only if, the Respondent fails to comply with item 6 above in a timely manner, the Respondent shall pay a CIVIL PENALTY in the amount of SIX THOUSAND FIVE HUNDRED DOLLARS (\$6,500.00), payable within 30 days of default.
- viii. If and only if, the Respondent fails to comply with item 7 above in a timely manner, the Respondent shall pay a CIVIL PENALTY in the amount of SIX THOUSAND FIVE HUNDRED DOLLARS (\$6,500.00), payable within 30 days of default.
- ix. If and only if, the Respondent fails to comply with item 8 above in a timely manner, the Respondent shall pay a CIVIL PENALTY in the amount of SIX THOUSAND FIVE HUNDRED DOLLARS (\$6,500.00), payable within 30 days of default.
- x. If and only if, the Respondent fails to comply with item 9 above in a timely manner, the Respondent shall pay a CIVIL PENALTY in the amount of NINE THOUSAND FOUR HUNDRED DOLLARS (\$9,400.00), payable within 30 days of default.

11. The Respondent shall otherwise conduct business in accordance with the Act and rules promulgated pursuant to the Act.

The director of the Division of Water Pollution control may, for good cause shown, extend the compliance date contained within this Order. In order to be eligible for this time extension, the Respondent shall submit a written request to be received a minimum of thirty days in advance of the compliance date. The request must include sufficient detail to justify such an extension and include at a minimum the anticipated length of the delay, the precise cause or causes of the delay, and all preventive measures taken to minimize the delay. Any such extension shall be in writing.

Further, the Respondent is advised that the foregoing Order and Assessment is in no way to be construed as a waiver, expressed or implied, of any provision of the law or regulations. However, compliance with the Order and Assessment will be one factor considered in any decision whether to take enforcement action against the Respondent in the future.

REASONS FOR DECISIONS

XIV.

The Board approves this Agreed Order because it is a fair and reasonable settlement of the matter. The Board also approves of settlements in that they conserve the resources of the Department and the Board.

RIGHTS OF APPEAL

XV.

The Respondent is hereby notified and advised of the right to administrative and judicial review of this FINAL DECISION AND ORDER pursuant to the Tennessee Uniform

Administrative Procedures Act, T.C.A. §§ 4-5-316, 4-5-317 and 4-5-322 and the Water Quality Control Act, T.C.A. §§ 69-3-111 and 69-3-115.

T.C.A. § 4-5-316 gives a party the right to submit to the Board a Petition for Stay of Effectiveness of a Final Order within seven (7) days after its entry. T.C.A. § 4-5-317 gives any party the right to file a Petition for Reconsideration within ten (10) days after the entry of a Final Order, stating specific grounds upon which relief is requested.

T.C.A. §§ 4-5-322 and 69-3-111 provide the right of judicial review by filing a Petition in the Chancery Court of Davidson County within sixty (60) days of entry of this Order.

This AGREED ORDER will become final upon entry in the Administrative Procedures Division (APD) of the Secretary of State's Office. A copy of the final AGREED ORDER, showing the filing date with the APD, shall be served upon the Respondent by certified mail, return receipt requested.

THIS FINAL DECISION AND ORDER SHALL BECOME EFFECTIVE UPON ENTRY.

FOR THE TENNESSEE WATER QUALITY CONTROL BOARD:

Chairperson

By entering into this Agreed Order, the Respondent knowingly and voluntarily waives its rights to appeal, as described in the RIGHTS OF APPEAL section above.

Jan Gass

Ogel, Gass & Richardson 103 Bruce Street Sevierville, Tennessee 37862 Attorney for the Respondent

Emily H. Yao, BPR #023554
Assistant General Counsel
Tennessee Department of
Environment & Conservation
20th Floor, L & C Tower
401 Church Street
Nashville, TN 37243
(615) 532-0131

ENTERED in the Office of the Secretary of State, Administrative Procedures Division,

this 15th day of Corel, 2008.

Thomas G. Stovall, Director Administrative Procedures Division

Exhibit A

SYSTEM PROFILE AND PERFORMANCE SUMMARY

Population Served:	
Number of Customers:	_
Number of Treatment Plants:	_
Total Wastewater Design Treatment Capacity:	
Fotal Volume of Wastewater Treated:	_
Miles of Gravity Sewers:	_
Number of Manholes:	
Number of Inverted Siphons:	_
Number of Pump Stations:	
Miles of Force Main:	
Number of Employees:	
Annual Capital Improvement Budget:	
Annual Operation and Maintenance Budget:	
Total Annual Operating Budget:	

Exhibit B

System-Wide MOM Programs Recent Performance Sum	шту								
Performance Measures for Provinus 12 Months	Year Morth								
A. Number of Customer Complaints	·								
B. Sumber of MPDES Permit Violations									
C. Sumber of Capacity-Robated Overflows									
D. Number of Maintenance-Related Overflows					-				
E. Number of Operations-Related Overflows									
F. Number of Blockages									,
G. Number of Cave-Ins									
11. Number of Pump Station Fullaries									
Peak Flow Factor at Treatment Plant (I hour highestry mouth avg.)									
Monthly Average Trentment Plant Flow Rate (gallenpitedday)		·						·	
K., Monthly High One Day Treatment Flow Rate (gulfenpika/day)				-		. 5		-	
1. Number of By-Passes at Treatment Plant									
M. Volume of Treatment Plant By-Passes (gal)									
N. WWTP Weekly Average Influent BOD (ing/L)	٠.								

Exhibit C

Basin

Name/Number

Data shall be entered basin by basin unless otherwise noted # Gravity Lines per Basin(feet) # Force main per Basin(feet) # Connections per basin

Overflows

Overflows per Basin
Estimated Gallons of
Overflows Total per
Basin
Overflows Reaching
Waters
Estimated Gallons of
Overflows Reaching
Waters
Overflows at
Treatment Plant

Treatment Plant # Dry Weather Overflows per Basin # Wet Weather Overflow Events per NPDES Permit Language # Wet Weather Overflow Individual Releases # Overflows Cleaned Up # Overflows Reported via paper or electronic DMR # Overflows Initial Report Notification to TDEC # Overflows Followup Report Sent to

TDEC within 5 Days

Building Backups
Due to Public System
Failure during Dry
Weather
Building Backups
Due to Public System
Failure during Wet
Weather

Complaints

Complaints Received # Complaints Investigated # Complaints Resolved # Complaints determined to be Customer Private Line Issues

Assessment and Prioritization

Corrosion

Locations Subject to Corrosion # Corrosion Inspections Conducted # Corrosion Defects Identified

Manholes

Manholes per Basin # Manholes Inspected during the Calendar Year

Manholes Inspected since Program Began # Manholes with Defects

Flow Measurement

Year of Most Recent Flow Monitoring Peak Flow Observed During Monitoring Period(gpd) Instantaneous Peak Flow Observed(gpm/cfm)

Average Flow Observed during Monitoring
Period(gpd)
Low Flow Observed
during Monitoring
Period(gpd)
List Basins that
Contribute Flow to this
Basin

CCTV Inspection

Feet Inspected by CCTV this Calendar Year

Feet Inspected since
Program Began
Feet Cleaned for
Inspection
Feet Cleaned for
Routine or Scheduled
Maintenance

Defects Identified by CCTV Inspection # Defects Catalogued or Recorded into Database

Smoke Testing

Feet Smoke Tested this Year

Leaks Identified on Public System

Public System Leaks Repaired # Public System Leaks Not Repaired This Year

Repaired Since Program Began # Leaks Identified on Private Service Connections

Public Leaks Not

Private Service Leaks Repaired # Private Leaks Identified but Not Repaired This Year # Private Leaks Not Repaired Since Program Began

Gravity Line Rehabilitation

Feet Gravity Lines Rehabilitated

Feet Rehabilitated Since Program Began

Feet Replaced

Feet Replaced Since

Program Began

Feet Sliplined

Feet Sliplined Since

Program Began

Feet Cured in Place

Feet Cured in Place

Since Program Began

Manholes

Rehabilitated

Manholes

Rehabilitated Since

Program Began

Manholes Replaced

Manholes Replaced

Since Program Began

Feet of Gravity Line

Rehabilitation

Inspected

Feet Of Gravity Line Rehabilitation Tested

Grease Program

Facilities Required to have a Grease Device # Facilities with Installed Grease Devices

Grease Installation Inspections Conducted and Documented # Routine Grease Inspections

Facilities Inspected for Compliance with Grease Ordinance

Grease NOVs to System Users

Fines issued to Grease Generators # Grease Generators Water Service Discontinued

Other Inspections
Construction
Inspections
Pumps Station
Inspections

Documented Pump Station Inspections